



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE

Large and Mid-Size
Business Division

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MEMORANDUM FOR INDUSTRY DIRECTORS, LMSB
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FROM: Industry Director /s/ Bobby E. Scott
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SUBJECT: Field Directive on MACRS Asset Categories for Refinery Assets

This memorandum is intended to provide direction to effectively utilize resources in the classification of petroleum refinery assets for MACRS depreciation. This directive is not an official pronouncement of the law or the position of the Service and cannot be used, cited or relied upon as such.

Some taxpayers are seeking to change their method of depreciation for certain assets used in petroleum refineries from Class 13.3, Petroleum Refining to Class 28.0, Manufacture of Chemicals and Allied Products or other depreciation classes. This memorandum provides direction to examiners in determining whether assets that are used in a variety of refinery operations should be classified as petroleum refining assets.

Historically, the Service has considered asset class lives to be associated with a particular industrial activity. Legal support for this position is contained in Revenue Ruling 77-63 (assets employing chemical processes which are used at the taxpayer's bauxite refining plant to produce alumina are an integral part of the activity of refining of the nonferrous metal) and *Tennessee Natural Gas Lines vs. Commissioner*, 71 T.C. 74, 94 (1978), acq. 1979-2 C.B. 2 (a liquified natural gas facility, although functionally similar to a natural gas production plant, held not included in the class for such production plants since the taxpayer was engaged in the activity of storing natural gas). The regulations acknowledge, however, that a taxpayer can be engaged in more than one industrial activity, in which case the activity in which the asset is primarily used controls the asset's class life even if that activity is insubstantial in relation to all of the taxpayer's activities. Treas. Reg. Section 1.167(a)-11(b)(4)(iii)(b).

It is recommended that examiners take the following positions:

- All processing assets involved in the activity of petroleum refining are to be included in MACRS Asset Class 13.3. This would include any incidental manufacturing or waste removal processes, which are integral parts of petroleum refining.
- In cases where a taxpayer is engaged in more than one industrial activity, the activity in which the asset is primarily used controls the asset's classification. For example, in addition to using MTBE produced primarily from intermediate refinery process streams as an additive in their own

gasoline blending process, a taxpayer may sell the MTBE produced to third parties as a finished chemical. Primary use of the MTBE asset in either the refining activity or the chemical manufacturing activity will be determinative as to which Asset Class (13.3 or 28.0) is used.

Examiners are reminded that any change in a taxpayer's asset classification is a change in method of accounting to which the provisions of IRC Sections 446 and 481 and the regulations thereunder apply.

Questions *** can be directed to Kenneth W. Telchik, PFTG Petroleum Technical Advisor or Robert C. McCann, PFTG Petroleum Engineer. Kenneth can be reached at (972) 308-1582 or via email at Ken.W.Telchik@irs.gov. Robert can be reached at (713) 209-4464 or via email at Robert.C.McCann@irs.gov.